

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HORACE CLAIBORNE, et al.,

Plaintiffs,

vs.

Civil Action No. 18-1698

FEDEX GROUND PACKAGE SYSTEM,
INC.,

Defendant.

Transcript of Telephone Status Conference held on
Wednesday, December 15, 2021, before Honorable Robert J.
Colville, United States District Judge.

APPEARANCES:

For the Plaintiff: Lichten & Liss-Riordan
by Shannon Liss-Riordan, Esq., and
Michelle Cassoria, Esq., and
Zachary L. Rubin, Esq., and
Michelle Tolodziecki, Esq.

For the Defendant: Wheeler Trigg O'Donnell LLP
by Jessica Goneau Scott, Esq., and
Davis Schaller, Esq.
and
Joseph P. McHugh, Esq., and
Shanicka L. Kennedy, Esq.

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Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

1 Is there anything in particular -- I'm aware we have
2 pending motions, and I will take a particular look at the
3 pending motions and state law claims. Are there any other
4 particular issues you need the Court to look at right now?

5 I know things will be happening shortly once we hit
6 some deadlines and either successfully meet them or do not.
7 That may just prompt another round of motions.

8 Is there anything you need from us right now or that
9 we can do productively in the near term future to help move
10 things along?

11 MS. LISS-RIORDAN: Your Honor, this is Shannon
12 Liss-Riordan, if I can just comment briefly. I don't think
13 there is anything we need from Your Honor right now. I think
14 this is just a useful conversation to have these periodic
15 check-ins with you.

16 On the questionnaires, my understanding of it is that
17 the reason for or a reason for so many to be ordered is we
18 know -- I mean, we've always known that we're not going to be
19 able to get responses from all of our clients. As I said, our
20 attorneys and staff are working very diligently to get as many
21 answers as we can and get as many complete answers as we can.

22 And at some point there will have to be a decision
23 made about what happens. There are these additional tranche
24 coming through the 1150. So I'm sure if we keep working on
25 this, we should be able to get to 500 responses. I don't

1 think we're ever going to get to, say, 1650 complete
2 responses. That would probably take years. And I think at a
3 certain point it becomes not very helpful to developing more
4 of a record that both sides need.

5 I mean, I just can offer up that if FedEx thinks that
6 there has been skewed results from the people who have
7 responded versus not responded -- this is just an idea.
8 Obviously, they can do what they want to do. They could try
9 to depose the people who haven't responded or haven't
10 responded fully. And we could make full efforts to try to get
11 them to sit for deposition, even if FedEx doesn't have all of
12 their documents, and see whether their answers are much
13 different from those who were more responsive with documents.
14 It's just a thought.

15 Of course, there is a question about whether we can
16 get those folks to sit for deposition, but we'll try, as FedEx
17 asked us to.

18 On the remote versus in-person deposition issue, it's
19 sounding, unfortunately, that this might be headed toward a
20 motion that you're going to have to decide. I'll just say
21 that FedEx's counsel is not appreciating the fact that there
22 are not just clients involved here, but there are lawyers who
23 would have to go to an airport, get on a plane and travel in
24 order to attend an in-person deposition.

25 We have clients who may have concerns, but I have a

1 because of the new additions that they made.

2 That's what Your Honor ruled for us to get in
3 discovery in order to litigate final certification in the
4 case. And it doesn't seem to me to be a proper response to
5 say, "Well, FedEx Ground, keep issuing alternates, alternates,
6 alternates, and spending all this time and money and delay for
7 months and months and months issuing hundreds of different
8 alternates after you've already spent all this time on the
9 1650 with this now statement that we're never going to get
10 what's been ordered that we're entitled to.

11 MS. LISS-RIORDAN: Your Honor, my I respond? This is
12 Shannon Liss-Riordan.

13 THE COURT: Yes. Of course.

14 MS. LISS-RIORDAN: What I meant by this is that when
15 we said that June 2022 was a reasonable deadline, we're going
16 to know by June 2022 what responses we can get out of these
17 additional 1150. We're doing everything we can to get
18 responses from and get complete responses from as many as we
19 can.

20 All I meant was by that date we'll have gotten what
21 we can get. And the others that aren't going to respond,
22 they're just not going to respond. So that's why we didn't
23 need more time to work through those questionnaires. What I
24 was meaning when I said this would take years is it would take
25 years -- we know from doing this and we know from the

1 responses we've gotten from the first 500 is that we're not
2 going to get 100 percent. We've always known we're not going
3 to get 100 percent. It looks like we're running at about
4 40 percent.

5 I anticipate we are going to have some percentage of
6 the 1150 who are responsive. I'm guessing it's probably going
7 to be around the same 40 percent, because that's just how
8 things seem to work. Once you start seeing what a response
9 rate percentage is, that's pretty much the rate. Who knows?
10 Maybe we can get more this time around.

11 But my point was only that I had understood that part
12 of Your Honor's reasoning in setting these numbers is that
13 this would lead FedEx to get responses from a fulsome amount
14 of the opt-in collective.

15 I didn't understand the order to be that we're going
16 to keep doing discovery until plaintiffs have produced a full
17 1650 responses, because that I do think would take years. And
18 for reasons we argued to you before and we're not going to
19 reargue now, we don't think that's necessary for FedEx to be
20 able to defend itself in the case.

21 But, anyway, I just wanted to explain what I meant by
22 that. So I'm sure we'll have further discussion with you
23 about what to do when we get to that point.

24 THE COURT: I appreciate the response. Let me make
25 an observation. And I understand what you're saying. I guess